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In re Application of :
Kawakami, et al. :
Application No. 09/423,131 :
Filed: November 5, 1999 :
Attorney Docket No. 15689.50 :
For: METHOD AND APPARATUS FOR
TRAFFIC CONTROL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on May 1 and 8, 2006 to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application became abandoned for failure to timely and properly respond to the final Office action mailed October 28, 2005, which set an extendable three month period for reply. Applicants filed an amendment on December 21, 2005 which failed to place the application in *prima facie* condition for allowance, as was explained in the April 4, 2006 Advisory Action. Accordingly, this application became abandoned on December 29, 2005. The filing of the instant petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a RCE and required fee and amendment in reply to the October 28, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the October 28, 2005 final Office action, and the petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional" be submitted. However, the statement presented will be accepted and construed as meaning that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." If this is an incorrect interpretation in view of the rules, petitioners are required to provide a statement to that effect.

The petition is **granted**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$120.00 extension of time submitted on May 1, 2006 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be refunded to petitioners' credit card.

After the mailing of this decision the application will be forwarded to Technology Center AU 2616 for consideration of the RCE and amendment filed on May 1, 2006.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.



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